

Document Name	Document Version Number	Review Date
Hardship Policy	1.0.2	February 2016
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Purpose

Council recognises that there are cases of genuine hardship requiring respect and compassion in special circumstances. This policy establishes guidelines for assessment of hardship applications applying the principles of social justice, fairness, integrity, appropriate confidentiality and compliance with statutory requirements.

Scope

This policy applies to all applications for waiving, deferment and alternative payment arrangements, or writing off of rates, fees, charges and interest accrued on such debts.

Definitions

Ratepayer: The person liable for payment of the rates and charges due and payable on the property for which the hardship is claimed

Eligible Person: A person who is in receipt of a Pension Concession Card issued by Centrelink, the Department of Veterans Affairs or the Department of Veterans Affairs Gold TPI or EDA Card

Policy Content

This policy provides a framework for responding to applications from owners/ratepayers and customers experiencing genuine hardship with the payment of their rates, annual charges and fees in accordance with the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2005 (NSW).

1. HARSHIP ASSISTANCE AVAILABLE TO RATEPAYERS AND CUSTOMERS

A ratepayer may be eligible for consideration for hardship assistance in the payment of overdue rates, annual charges, interest and fees where:

- The person is unable to pay rates or accrued interest when due and payable for reasons beyond the person's control; or
- Payment when due would cause the person hardship

The Act provides for the following assistance to ratepayers and customers who may experience hardship in some circumstances in paying rates, annual charges and fees:

- Periodical payment arrangements for overdue rates and charges (Section 564)
- Writing off or reducing interest accrued on rates and charges (Section 564 & 567)
- Waiving, reducing or deferring the payment of the increase in the amount of rates payable because of hardship resulting from general revaluation of land in the Local Government Area (Section 601)
- Waiving or reducing rates, charges and interest of eligible pensioners (Section 575-582)
- Waiving or reducing Council fees when the inability to pay is due to hardship (Section 610E)

Council will consider applications for assistance with the following principles:

- Council will individually assess cases of financial hardship;
- Council will not reduce rates or annual charges, but will consider alternative available approaches to dealing with cases of financial hardship;
- Council will consider a scheme or periodical payment outside the due dates in cases of hardship or extenuating circumstance.

Applications for hardship must be made on the appropriate form, available from Council.

- The applicant must be the owner/spouse or part owner of the property and be liable for the payment of rates on the property
- The property to which the hardship application applies must be categorised as residential or farmland for rating purposes
- The property to which the hardship application applies must be the principle place of residence of the applicant/s
- The application for hardship must be accompanied with supporting documentation which may include but is not limited to:
 - Reasons why the person was unable to pay the rates and charges when they became due and payable;
 - Copy of recent bank statements for all accounts;
 - Details of income and expenditure;
 - Letter from a recognised financial counsellor or financial planner confirming financial hardship;
 - Letter from a medical professional confirming medical conditions due to hardship.

Council may request the applicant attend an interview to assist Council in the understanding of the issues causing hardship.

2. HARSHIP ASSISTANCE BY PERIODICAL PAYMENT ARRANGEMENTS

Council may enter into a formal agreement with a ratepayer eligible for alternative periodical payment arrangements for due and payable rates and charges. Council or the ratepayer may initiate a proposal for a periodical payment agreement. In accordance with Section 568 of the Act, payments will be applied towards the payment of rates and charges in the order in which they become due.

The following guidelines should be met in determining eligibility:

- Payments must be made on a weekly, fortnightly or monthly basis
- Arranged payments must be of an amount so that all amounts owing are paid in full by 30 June of that financial year
- Extenuating circumstances can be taken into consideration if either of the above two conditions cannot be met, but must be referred to the Chief Financial Officer for approval

Financial details of the ratepayer including income/outgoings may be required.

3. HARDSHIP ASSISTANCE BY WRITING OFF ACCRUED INTEREST AND COSTS

Council applies interest rates to the maximum allowable under Section 566 of the Act. However, Council may write off accrued interest and costs on rates or charges payable by a person under Section 567 of the Act and the Local Government (General) Regulation 2005 where:

1. The person was unable to pay the rates or charges when they become due for reasons beyond the person's control, or
2. The person is unable to pay accrued interest for reasons beyond the person's control, or
3. Payment of the accrued interest would cause the person hardship

Council may write off interest and costs in accordance with Section 567(3) of the Act under the following circumstances:

- The ratepayer is experiencing genuine hardship. In such cases, Council may request the completion of a hardship application;
- The ratepayer is a "first time" defaulter, has previously had a good payment record and there mitigating circumstances;
- Prolonged or serious illness has prevented the ratepayer meeting their financial obligations to Council;
- The ratepayer has complied with all criteria with respect to a Section 564 periodic payment agreement;
- Council is satisfied that the circumstances giving rise to the default are temporary.

4. HARDSHIP ASSISTANCE DUE TO CERTAIN VALUATION CHANGES

Under Section 601 of the Act, any ratepayer who incurs a rate increase following a new valuation may apply to Council for rate relief in the first year the valuation is used for rating purposes. If the new rate payable causes the ratepayer to suffer substantial hardship (Section 601(1)). Notwithstanding the provision, Council will not consider applications under this provision, as valuations are independently determined by the Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the NSW Valuation of Land Act 1916.

In addition, it is considered that Council has maximised its scope under the Act to adopt a rating structure that cushions the impact of any change in valuation on rates.

5. ASSISTANCE TO ELIGIBLE AGED PENSIONERS – DEFER PAYMENT OF RATES AND CHARGES

Aged pensioners who satisfy the eligibility criteria may make application to defer the payment of rates and charges against their estate. If granted, payment of the rates, charges and interest will be deferred until any of the following occurs:

- Death of the ratepayer; or
- Sale of the property; or
- The ratepayer ceases to occupy the property as their principle place of living and rents the property out

The criteria used to determine eligibility for deferral will be:

- The ratepayer must be an aged pensioner as defined by Centrelink in receipt of a pensioner rate concession card; and
- The property must be the ratepayer's principle place of living; and
- The property must be used for residential or farming purposes only; and
- The property can have no more than a single dwelling house or residential unit erected upon it; and
- The total amount of rates and charges (net of pensioner concession) payable must be more than 8% of the annual age pension of an individual (if the ratepayer is an individual) or 8% of the annual age pension of a couple (if the ratepayer is a couple) at the date of the original application.

An initial prescribed application form must be completed and lodged with Council for determination of eligibility by the Accounting Officer. A ratepayer dissatisfied with a decision of the Accounting Officer may have that decision reviewed by the Director Corporate & Community Services.

Council will post out a letter each year to the aged pensioner with a copy to sign and return authorising the continuation of the deferral. The purpose of the annual letter is to confirm that the aged pensioner continues to own and occupy the property, is still alive and is aware of and agrees to the deferral. Deferral will continue once granted without the need to satisfy the 8% criteria again, if the pensioner continues to own and occupy the property. Where the pensioner ceases to occupy the rateable property or the property is rented the repayment timeframe for the deferred rates and charges will be negotiated by the Senior Revenue Officer. A person dissatisfied with a decision of the Accounting Officer may have that decision reviewed by the Director Corporate & Community Services.

Interest charges accrue in respect of deferred rates and charges at the rate determined by Council under Section 566 of the Act. No deferred rates, charges or interest are to be written off under this policy.

The maximum number of years for which rates, charges and interest can be deferred under this policy is ten (10) years. Should the aged pensioner wish to continue the deferral of rates, charges and interest beyond this period, payment of the first deferred year's rates, charges and interest will be required. This cycle may continue as long as required.

6. HARDSHIP ASSISTANCE IN RELATION TO COUNCIL FEES

The General Manager will have the delegated authority to make such decisions in relation to the waiving or reducing of fees up to the amount of \$1,000. For amounts over \$1,000 the decision must be by resolution of Council.

Any application for hardship assistance in relation to Council fees or charges other than annual charges by waiving or reducing fees under Section 610(E) of the Act will be assessed in accordance with the same eligibility criteria used to assess hardship assistance in respect to rates and annual charges.

7. GENERAL

Financial hardship cases will only be discussed in Closed Council or Committee Meetings.

All hardship applications shall be determined in accordance with Council delegations.

All hardship applicants shall be advised in writing of Council's decision within 30 days of receipt of the application.

Privacy will be maintained in accordance with the NSW Privacy and Personal Information Protection Act 1998.

Links to Policy

Debt Recovery Policy

Pensioner Concession Policy

Links to Procedure

Nil

Links to Forms

Hardship Application Form

References

Nil

Responsibility

Director Corporate & Community Services

Document Author

Director Corporate & Community Services

Relevant Legislation

Local Government Act 1993

Associated Records

Nil